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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Berthier Lemieux

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PERMAN & GREEN
425 POST ROAD
FAIRFIELD, CT 06824

EXAMINER

AHN, SAM K

ART UNIT

PAPER NUMBER

2611

DATE MAILED: 04/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/099,627	LEMIEUX, BERTHIER	
	Examiner	Art Unit	
	Sam K. Ahn	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2006.
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-13 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1,3,4,7-10,12 and 13 is/are rejected.
 7) ☒ Claim(s) 5,6 and 11 is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☒ The drawing(s) filed on 28 October 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 10/28/06 have been fully considered but they are not persuasive. Applicants have amended claims 1,9 and 12 to incorporate the limitation of bypassing a link adaptation process of the decoder and argues that prior art does not teach the limitations claimed.

Molinari teaches a method and an apparatus for determining the performance of a decoder, which testing apparatus is arranged to be functionally connected to the decoder, the testing apparatus comprising:

a composing means (10 in Fig.7, further shown in Fig.2) for composing test data (see 200 in Fig.6 and note col.9, lines 64-67), a transmitter (55 in Fig.2) for transmitting the test data to the decoder for decoding (202 in Fig.6 and note col.11, lines 13-25), a receiver (50 in Fig.2) for receiving at least part of the inband data (208 in Fig.6), and a comparator (54 in Fig.2) for determining the performance of decoding by comparing the transmitted inband data and the at least the part of the inband data or the received inband data (208,210,212 in Fig.6 and note col.10, lines 44-47).

Although Molinari teaches wherein the received information regarding the received test data comprises information from a control channel (inband data) and voice channel (note col.10, lines 19-27), Molinari does not explicitly teach wherein the test data comprises channel coded parameters.

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DeJaco teaches transmission of channel coded parameters (encoded speech parameters, note col.1, lines 24-30 and col.5, lines 22-24) for testing. Therefore, it would have been obvious to one skilled in the art at the time of the invention to incorporate the teaching of DeJaco in the test data of Molinari by including the channel coded parameters in the test data for the purpose of testing whether the received decoded speech parameters meet within a predetermined acceptable range, as taught by DeJaco (note col.5, lines 50-55).

However, Molinari in view of DeJaco do not explicitly teach bypassing a link adaptation process of the decoder.

3GPP2 teaches bypassing a link adaptation process of the decoder (note fourth paragraph on p.5 wherein vocoding of the decoder in SDU is bypassed).

Therefore, it would have been obvious to one skilled in the art at the time of the invention to incorporate the teaching of 3GPP2 in the system of Molinari by bypassing the link adaptation process of the decoder of Molinari when base station and mobile station communicates receiving and transmitting voice data for the purpose of improving end to end voice quality by reducing the number of decoding and encoding functions performed in a wireless network (note second paragraph on p.5 of 3GPP2).

Therefore, the amended claims are taught by Molinari in view of DeJaco and 3GPP2.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant

relies (i.e., *bypass the link adaptation process in connection with a decoding testing procedure*) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The bypassing step are performed in the system, however, does not claim wherein the bypassing step has connection with the decoding testing procedure.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitation of *bypassing a link adaptation process of the decoder* must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet

submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

3. Claims 1 and 3-13 are objected to because of the following informalities:

In claim 1, line 5, "generating test" should be "generating the test", line 14, "of decoding" should be "of said decoding" and line 15, "data and" should be "data and the".

In claim 3, line 5, "the downlink" should be "a downlink" and line 6, "the uplink" should be "an uplink".

In claim 4, line 3, "the first" should be "a first".

In claim 5, line 4, "which test" should be "wherein said test", line 5, "decoder and" should be "decoder, and".

In claim 8, line 3, define "AMR".

In claim 9, line 4, "comprising" should be "comprising: ", line 12, "of decoding" should be "of said decoding", line 13, "data and" should be "data and the".

In claim 10, line 2, "arranged to" should be "arranged to: ", line 5, "the downlink" should be "a downlink" and line 7, "the uplink" should be "an uplink".

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In claim 11, line 2, "arranged to" should be "arranged to: ", line 4, "which" should be "wherein the", line 6, "decoder and" should be "decoder, and".

In claim 12, line 1, "comprising" should be "comprising:", line 9, "at least a part" should be "the at least part".

Claims 6 and 13 directly or indirectly depend on claim 1 or 12. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1,3,4,7,9,10,12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Molinari et al, USP 6,308,065 B1 (Molinari, cited previously) in view of DeJaco USP 6,205,130 B1 (cited previously) and 3GPP2 S.R0014 Version 1 Tandem Free Operation (Stage 1) Dec. 13, 1999 (3GPP2).

Regarding claims 1,9 and 12, Molinari teaches a method and an apparatus for determining the performance of a decoder, which testing apparatus is arranged to be functionally connected to the decoder, the testing apparatus comprising:
a composing means (10 in Fig.7, further shown in Fig.2) for composing test data (see 200 in Fig.6 and note col.9, lines 64-67), a transmitter (55 in Fig.2) for

transmitting the test data to the decoder for decoding (202 in Fig.6 and note col.11, lines 13-25), a receiver (50 in Fig.2) for receiving at least part of the inband data (208 in Fig.6), and a comparator (54 in Fig.2) for determining the performance of decoding by comparing the transmitted inband data and the at least the part of the inband data or the received inband data (208,210,212 in Fig.6 and note col.10, lines 44-47).

Although Molinari teaches wherein the received information regarding the received test data comprises information from a control channel (inband data) and voice channel (note col.10, lines 19-27), Molinari does not explicitly teach wherein the test data comprises channel coded parameters.

DeJaco teaches transmission of channel coded parameters (encoded speech parameters, note col.1, lines 24-30 and col.5, lines 22-24) for testing. Therefore, it would have been obvious to one skilled in the art at the time of the invention to incorporate the teaching of DeJaco in the test data of Molinari by including the channel coded parameters in the test data for the purpose of testing whether the received decoded speech parameters meet within a predetermined acceptable range, as taught by DeJaco (note col.5, lines 50-55).

However, Molinari in view of DeJaco do not explicitly teach bypassing a link adaptation process of the decoder.

3GPP2 teaches bypassing a link adaptation process of the decoder (note fourth paragraph on p.5 wherein vocoding of the decoder in SDU is bypassed).

Therefore, it would have been obvious to one skilled in the art at the time of the invention to incorporate the teaching of 3GPP2 in the system of Molinari by bypassing the link adaptation process of the decoder of Molinari when base station and mobile station communicates receiving and transmitting voice data for the purpose of improving end to end voice quality by reducing the number of decoding and encoding functions performed in a wireless network (note second paragraph on p.5 of 3GPP2).

Regarding claims 3 and 10, Molinari further teach transmitting the test data in the voice (or traffic channel, note col.10, lines 20-27), and transmitting the test data from the testing apparatus to the decoder in the downlink traffic channel and from the decoder to the testing apparatus in the uplink traffic channel (between 14 and 15 in Fig.1 or between 14 and 42 in Fig.7), Molinari does not explicitly teach activating a traffic channel before transmitting the test data.

However, it would have been obvious to one skilled in the art at the time of the invention to active the traffic channel prior to the transmission of the test data for the purpose of properly transmitting the test data, otherwise, the traffic channel which may be in use or is disabled, may not transmit the test data and resulting in as an error in testing.

Regarding claim 4, although Molinari further teaches transmitting the inband data back (Fixed Link Signal) to the testing apparatus (10 in Fig.7), Molinari does not

explicitly teach transmitting back in a first available uplink traffic channel time frame.

However, it would have been obvious to one skilled in the art at the time of the invention to implement as such for the purpose of expediting the computation of testing results by transmitting in a traffic channel upon availability.

Regarding claim 7, DeJaco further teaches wherein the channel coded parameters are speech parameters (note col.5, lines 50-55).

Regarding claim 13, although Molinari teaches the inband data is arranged to be transmitted back to the testing apparatus in an uplink traffic (FIXED LINK SIGNAL in Fig.7), does not explicitly teach transmitting back in a first available uplink traffic channel time frame, it would have been obvious to one skilled in the art at the time of the invention to implement as such for the purpose of expediting the computation of testing results by transmitting in a traffic channel upon availability.

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Molinari et al, USP 6,308,065 B1 (Molinari, cited previously) in view of DeJaco USP 6,205,130 B1 (cited previously) and 3GPP2 S.R0014 Version 1 Tandem Free Operation (Stage 1) Dec. 13, 1999 (3GPP2) and in further view of Su et al. USP 6,493,665 B1 (Su, cited previously).

Regarding claim 8, Molinari in view of DeJaco and 3GPP2 teach all subject matter claimed, as applied to claim 1. Although Molinari in view of DeJaco and

3GPPS teach determining the performance of channel decoding, do not explicitly teach mode indication inband data filed in AMR full-rate or half-rate speech channel.

Su teaches AMR codec having adaptive speech and channel codec capable of operating at full-rate and half-rate (note col.42, lines 52-57). By applying the AMR codec, as taught by Su, in 41 of Fig.7 of Molinari, in order to provide an adaptive rate codec in the system of Molinari, it would have been obvious to one skilled in the art at the time of the invention to incorporate the mode indication inband data field during the testing of codec of Molinari for the purpose of properly testing codec with a predetermined parameters.

Allowable Subject Matter

6. Claims 5,6 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, and overcome the claim objections.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kim US 6,504,881 B1 teaches testing a decoder by providing data and control signals.

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8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sam Ahn whose telephone number is (571) 272-3044. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mohammad Ghayour can be reached on (571) 272-3021. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


MOHAMMED GHAYOUR
SUPERVISORY PATENT EXAMINER

Sam K. Ahn
3/31/06